

March 4, 2020

Mr. Brian Shepherd
Chief Executive Officer
United Network for Organ Sharing
700 North 4th Street
Richmond, Virginia 23219

Dear Mr. Shepherd,

Thank you for your correspondence following the Labor, Health and Human Services, and Education Appropriations Subcommittee hearing with the HHS Secretary Azar. I appreciate your willingness and suggestion to provide more information to the Subcommittee regarding the liver allocation policy and the process by which it was adopted.

I recognize that, as the federal contractor responsible for administering the Organ Procurement and Transplantation Network (OPTN), the United Network for Organ Sharing (UNOS) is tasked with an enormous responsibility. Tens of thousands of lives depend on the critical work and policies generated by your organization. That is why I am so troubled by the process by which the new liver allocation policy was adopted, and the adverse impact it will have on nearly 40 percent of the country.

I have raised significant concerns over the past two years about how the process and policy for these life-impacting decisions are made. First, I was greatly troubled that the UNOS Board would overrule the Liver and Intestine Committee's recommendation. The Committee is comprised of transplant experts from some of the most prestigious institutions in the country. As such, the Committee's recommendations should be followed unless there are specific, vetted, justifiable reasons to do otherwise. What is the purpose of an expert Committee if their recommendations are to be overruled for a predetermined outcome?

Second, I was very pleased to see a robust comment period, as you point to in your letter. However, what you did not state was that not all comments were included in your consideration. That is a significant flaw in the process by which the policy was developed – and hurts UNOS' goal to be transparent and credible.

Third, the decision reached in December 2018 is fundamentally different than the outcome from the prior year. How can a fair and equitable process radically change the outcome from one year to the next? This shows systematic failure in the process.

Further, as I noted in my questions to the Secretary, the federal judge hearing the challenge to the new liver allocation policy referred to evidence of regional bias on the part of UNOS. Even more concerning is that it appears UNOS, as the federal contractor tasked with

developing national organ allocation policies, is trying to keep evidence under seal in the ongoing litigation. Your letter notes that, "Extensive documentation of the OPTN's open and transparent policy development process has been and remains publicly available..." If that is indeed the case, please provide the documents under seal to the Subcommittee and make this information publicly available on your website. The policies that the OPTN are deciding are incredibly important to thousands of Americans across the country. They have the right to see the entire deliberation and I appreciate your desire to be more transparent.

I remain opposed to the implementation of this new policy. As I mentioned at the HHS hearing last week, access to life-saving care is at the center of my concerns. How are transplant programs in rural America supposed to stay afloat or retain top talent if the number of transplants in their region go down by 30 to 40 percent?

Again, I appreciate your willingness to provide details and answers on this issue and look forward to your response.

Sincere regards,

A handwritten signature in blue ink, appearing to read "Roy Blunt", with a long horizontal flourish extending to the right.

Roy Blunt
United States Senator